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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/938,125	08/23/2001	Jonas Ulenas	JONAS-203.1-US	2156
24972	7590	03/25/2005	EXAMINER	
FULBRIGHT & JAWORSKI, LLP 666 FIFTH AVE NEW YORK, NY 10103-3198			CUFF, MICHAEL A	
			ART UNIT	PAPER NUMBER
			3627	

DATE MAILED: 03/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/938,125

Applicant(s)

ULENAS ET AL.

Examiner

Michael Cuff

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 December 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 33-55 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 33-55 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Objections***

1. New claims are, for the most part, a re-arranging of the old claims. As a result, minor antecedent errors are in the claims. For example, claim 33, notice "database" in lines 8 and 11.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 33-38, 40-50, and 52-55 rejected under 35 U.S.C. 102(e) as being anticipated by Peckover.

Peckover shows, figures 1, 2, and 19, "a system for electronic commerce (10) having personal agents (12 and 13) that represent consumers and providers in a virtual

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marketplace (28). Consumer personal agents conceal the identity of the consumer and are capable of creating decision agents (14) that shop for products and assist consumers in comparing and ranking products.” (abstract)

“A Query 106 describes the product or product category for which to search. Query 106 includes data from Product Template 174 completed by the consumer and relevant data from the consumer's preferences, as assembled by Decision Agent Factory 76 of the consumer's Personal Agent 12. A Response Manager 108 receives search results and returns them to the consumer's Personal Agent 12. A Log function 110 stores records of the activities of Decision Agent 14. These records may be consulted later, for example, by a Demand Agent 16 that is calculating historical demand for a product.” (column 21, lines 57-67)

(selecting one or more product/service criteria – product template)

(at least one of said selected product/service criteria as a ranking parameter by a consumer – consumer's preferences)

(storing said selected product/service criteria and said ranking parameter in said database, thereby providing market research data – log function 110 stores this data, which is used for calculating historical demand.)

“Referring now to FIG. 5A, each preference datum 68 comprises not only a value 72, but also a key 70 for ease of searching. Referring to FIG. 5B, a small sample of preference data illustrates the kind of data that might be used. A particular user typically will have much more preference data. Some values are shown as "rank

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m in n" to illustrate that ranking data may also be stored." (column 19, lines 22-28)

(The above shows how personal agent 12 incorporates ranking parameters in the search criteria and the stored data. Note figure 5b, weight lifting, rank 1 in 10; stair climbing, rank 3 in 10; and swimming 10 in 10)

"Referring to FIG. 11, an overall method according to the present invention for searching for a product is referred to generally by reference numeral 220." (column 27, lines 66-67)

"Agents and other components operating in Agent Marketplace 28 have access to a Product Database (Product DB or PDB) 32. " (column 17, lines 8-10)

"One of the major consumer uses of Agent System 10 is to assist a consumer in locating information about a product that is advertised for sale." (column 27, lines 52-54)

"PDB 32 maintains generic data about products, to be referenced by ads placed by providers." (column 25, lines 44-45)

(The above shows searching a database connected to said network for products or services. It also shows searching in a connected advertisement database.

Figure 16 also shows a search process. Matching the products or services closest to the criteria is an inherent feature of the basic search engine.)

Figure 19 shows search results process. Step 364, the preference manager organizes results according to consumer preferences.

(The above shows displaying a list of products or services satisfying ..., said list

being ordered in accordance with ranking parameter. Also, controlling the display)

"Referring now to FIG. 12A, there is shown a method for a Compose Decision Query subroutine, referred to generally by reference numeral 228. If the consumer wishes to specify a search that is similar to a previously performed search, Decision Agent Archive 80 displays a list of search queries from expired Decision Agents from which the consumer may select (steps 242-246)." (column 28, lines 17-23)

(The above shows how to enter one or more new or additional product/service criteria by said consumer.)

Figure 20 shows the expire decision agent subroutine, which includes step 382, archiving expired decision agent. "Referring to FIG. 20, an Expire Decision Agent subroutine is referred to generally by reference numeral 372. When a Decision Agent is expired, Expired Decision Agent Manager 154 logs the expired Decision Agent (step 378) so that Demand Agents can easily search through the expired Decision Agents of this market when calculating historical demand." (column 30, lines 55-62)

(The above shows storing said selected products or services in said database as market research data of consumer preferences.)

"Within Agent System 10, preference data also includes "demographic" data. Demographic data indicates facts about the user, such as whether the user is a homeowner, the user's gender, the user's age group, etc." (Column 19, lines 6-8)

(The above shows receiving information about the physical characteristics of said consumer – gender being a physical characteristic. It also shows generating an image of said consumer – demographic profile being an image.)

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 39 and 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peckover in view of Rom (6,307,568).

Peckover shows all of the limitations of the claims except for specifying the steps of generating a virtual representation of a consumer and displaying selected products with the virtual representation.

Rom teaches, figure 1, a virtual dressing over the internet method (generating representation and displaying with selected products) in order to increase sales by helping the customer visualize the product better.

Based on the teaching of Rom, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to modify the display and customer profile parts of the Peckover system to incorporate the Rom virtual dressing method in order to increase sales by helping the customer visualize the product better.

### ***Response to Arguments***

4. Applicant's arguments filed 12/13/04 have been fully considered but they are not persuasive.

Applicant and the examiner do not seem to be communicating well about the preserving the privacy of the consumer. Please refer to figure 1 of Peckover. Notice the "Anonymous product query" between the personal agent 12 and the decision agent 14. The "storing" step, in Peckover, derives its data from the decision agent and therefore preserves the privacy of the customer.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Cuff whose telephone number is (703) 308-0610 or, after 4/13/05, (571) 272-6778.

The examiner can normally be reached on 8:00 to 5:30. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on (703) 308-5183. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.


Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.



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Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 3/18/05  
Michael Cuff  
March 18, 2005